

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF ARKANSAS  
FAYETTEVILLE DIVISION**

**BRET A. BIELEMA**

**PLAINTIFF**

**v.**

**5:20-cv-05104-PKH**

**THE RAZORBACK FOUNDATION, INC.**

**DEFENDANT**

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**THE RAZORBACK FOUNDATION, INC.**

**COUNTER-PLAINTIFF**

**V.**

**BRET A. BIELEMA and NEIL CORNRICH**

**COUNTER-DEFENDANTS**

**DEFENDANT’S MOTION FOR LEAVE TO FILE SUPPLEMENTAL RESPONSE TO  
MOTION FOR SANCTIONS UNDER SEAL**

Defendant/Counter-Plaintiff, The Razorback Foundation, Inc. (the “Foundation”), by and through its attorneys, Friday, Eldredge & Clark, LLP, for its Motion for Leave to File a Supplemental Response to the Motion for Sanctions, states as follows:

1. Plaintiff Bret Bielema filed a Motion for Sanctions (the “Motion”) on November 3, 2020 (Doc. Nos. 44-45). In the Motion, Bielema asserts that the Foundation did not make a reasonable inquiry prior to filing its Counterclaim to determine whether there was evidentiary support for the fraud claim and allegations regarding Cornrich coordinating with Bill Belichick and the New England Patriots to maximize Bielema’s payments under the Release Agreement with the Foundation. *See, e.g.*, Doc. No. 45 at 7.

2. The Foundation filed a Response in Opposition to the Motion the same day (Doc. No. 46).

3. During the course of discovery and since filing its Opposition, the Foundation has received documents from the New England Patriots that directly contradict the assertions in the Motion for Sanctions.

4. On December 22, 2020, the Foundation requested that Bielema withdraw the Motion. Upon receipt of this request, counsel for Bielema requested that the Court “defer ruling on the pending Joint Motion for Sanctions for at least a few days.” *See* Ex. A. Yet, just one day later on December 23, 2020, Bielema informed the Court that “Bret Bielema and Neil Cornrich have completed their review of the newly discovered evidence and have concluded that it has no bearing on the pending Joint Motion for Sanctions.” *Id.*

5. On December 23, 2020, Bielema’s counsel informed that Foundation that the Foundation’s interpretation of the documents is wrong. Bielema’s counsel stated that he intended to provide an explanation within one day and further stated that additional text messages between Bielema and Cornrich were “discovered this morning” that undermine the Foundation’s fraud claim. Those text messages (and others) are the subject of the Foundation’s November 23, 2020 Motion to Compel (Doc. Nos. 50-51).

6. On December 28, 2020, Bielema’s counsel provided a seven-page response that included one screenshot of a single text message that he claims supports Bielema’s position. Notably, none of the other “newly discovered” text messages have been produced. Additionally, Bielema’s explanation of the Patriots documents rings hollow, and he refuses to withdraw the Motion for Sanctions.

7. Because counsel for Bielema has not agreed to withdraw the Motion, the Foundation believes it is necessary to supplement its Opposition with the recently produced documents to provide the Court with context as to the Patriots’ knowledge and involvement.

8. On December 1, 2020, the parties jointly submitted a proposed Stipulated Protective Order for the Court's consideration. The proposed Protective Order provides protections for third parties. The Patriots produced the documents at issue as "Attorneys' Eyes Only" pending entry of the Stipulated Protective Order by the Court.<sup>1</sup> The Patriots have represented that they will designate the materials as "Protected Confidential Material" once the Protective Order is entered by the Court. As such, the Foundation seeks approval to file its Supplemental Response under seal.

9. Accordingly, the Foundation requests leave to file a Supplemental Response to the Motion for Sanctions under seal on or before January 6, 2021.

WHEREFORE, the Foundation prays that its Motion for Leave to File a Supplemental Response to the Motion for Sanctions be granted, that the Foundation be allowed to file such Supplemental Response under seal, and that the Court grant it any other relief to which it is entitled.

Respectfully submitted,

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By: /s/ Marshall S. Ney  
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<sup>1</sup> The Stipulated Protective Order submitted to the Court for approval does not contain an "Attorneys' Eyes Only" designation, and the parties simply agreed to the Patriots' request to hold the documents "Attorneys' Eyes Only" as a courtesy until a Protective Order is entered by the Court.

**CERTIFICATE OF SERVICE**

I, Marshall S. Ney, do hereby certify that the foregoing is being electronically filed with the Court and that the below listed persons will receive a copy of the foregoing via the Court's electronic notification system (ECF), on or about this 28th day of December, 2020:

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